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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,062	11/19/2001	Reinhard Plaschka	PLAS3002/JEK	8599
23364	7590	11/03/2005	EXAMINER	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			HENDERSON, MARK T	
			ART UNIT	PAPER NUMBER
			3722	

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/926,062

Applicant(s)

PLASCHKA ET AL.

Examiner

Mark T. Henderson

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-5,9,22,27,31 and 42-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31 and 42-47 is/are allowed.
- 6) ☒ Claim(s) 1,3-5,9,22,27 and 48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED OFFICE ACTION**

### **Faxing of Responses to Office Actions**

In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing or responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers, which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

1. Claim 1, 3, 4, and 27 have been amended. Claims 2, 6-8, 10-21, 23-26, 28-30, and 32-41 have been canceled.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3 is finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "the same visual appearance" in line 4. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-5 and 48 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Kaule et al (6,036,232) in view of Cope (GB-1,534,403).

Kaule et al discloses in Fig. 1-3 and 6, a document of value comprising a security element (2 and 3) having at least one optically variable material (2) that conveys different color effects at different viewing angles (Col. 4, lines 24-27); and at least one machine readable feature substance (3, as stated in Col. 3, lines 45-56 ) that is in the form of a coded or alphanumeric information (Col. 5, lines 37-40); wherein the security element comprises a printed image having

a first printed layer (seen in Fig. 6) containing the features (Col. 2, lines 62 and 63, and Col. 5, lines 50-67), and the optically variable material disposed over the printed layer (Fig. 6); a second printed layer (5, as shown in Fig. 3, and in Col. 5, lines 7-14) containing no feature substance that is disposed in register with the first printed layer and shows the same visual appearance as the first printed layer; wherein the security element has liquid-crystal materials with different polarization properties (Col. 6, lines 17-32) wherein light with a certain polarization is reflected; and wherein the optically variable material can be a liquid-crystal material (Col. 6, lines 43-55); wherein the machine readable material is a material luminescing outside a visible spectral region (Col. 3, lines 8-15), or an IR-absorbent material (Col. 3, lines 60-65).

However, Kaule et al does not disclose: wherein the feature substance is a carbon black material; and wherein the first printed layer has a dark color.

Cope discloses on page 3, lines 75-85, a security document comprising an ink material wherein carbon black material is added to make the material an infra-red absorbing material.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kaule et al's document with a feature substance being an ink with the addition of carbon black as taught by Cope for providing a feature having infra-red material properties.

4. Claims 9, 22 and 27 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Kaule et al in view of Cope and further in view of Braun et al (6,183,018).

Kaule et al as modified by Cope discloses a document of value comprising all the elements as claimed in Claims 1 and 48, and as set forth above. However, Kaule et al does not disclose: wherein the security element is disposed on a plastic foil; wherein the optically variable material is an interference layer material; and is selected from the group consisting of a pigment and a particle with suitable size and shape factor; and a multilayer transfer material.

Braun et al discloses a document having an optically variable material which can be comprised of an interference layer and a pigment (Col. 5, lines 54-67); and wherein the security element is a multilayer transfer element which can be initially placed on a foil in whose layer structure the optically variable material and feature substance are disposed (Col. 6, lines 1-8).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kaule et al's and Cope's document with an optically variable material comprised of an interference layer, or a pigment as taught by Braun et al as alternative optically variable elements to attain particular effects.

***Allowable Subject Matter***

5. Claims 31, 42-47 are allowed.

6. The following is a statement of reasons for the indication of allowable subject matter: No prior art of record disclose multilayer transfer material and plastic pellets comprising optically

variable material that conveys different color effects at different viewing angles and one machine readable feature substance that does not impair a visually visible optically variable effect of the optically variable material, wherein the optically variable material and the feature substance are disposed in one layer and the layer being present in the form of information; and including all of the other limitations of the independent claims.

### ***Response to Arguments***

7. Applicant's arguments filed on July 26, 2005 have been fully considered but they are not persuasive.

Cope is now used to disclose a security document comprising a feature substance wherein carbon black is added to make the feature substance have infra-red absorbing properties. Kaule et al is cited for disclosing a security feature having a feature substance with infra-red properties.

### ***Prior Art References***

The prior art references listed in the attached PTO-892, but not used in a rejection of the claims, are cited for (their/its) structure. Isherwood et al, Friedl et al, Phillips et al, Bonkowski et

al, Kuntz et al, Hattori et al, Bradley et al, and Murl disclose similar documents having security elements.

### *Conclusion*

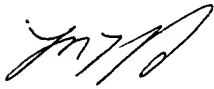
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Henderson whose telephone number is (571) 272-4477, and informal fax number is (571) 273-4477. The examiner can be reached on Monday-Friday from 9:00AM to 3:45PM. If attempts to reach the examiner by telephone are unsuccessful, the Examiner Supervisor, Boyer Ashley, can be reached at (571) 272-4502. The formal fax number for TC 3700 is (571) 273-8300.



MTH

October 23, 2005



BOYER D. ASHLEY  
PRIMARY EXAMINER